

structural strength of the bracket along the first bend line is improved, and (ii) longitudinally overlaps the first leg and the second leg, whereby the structural strength of the bracket along the first bend line is improved;

- (h) a laterally extending second bend line along a transition line from the strut to the tab; and
- (i) at least one secondary rib formed within the strut and the tab which (i) extends across and substantially perpendicular to the second bend line, whereby the structural strength of the bracket along the second bend line is improved, and (ii) transversely overlaps the at least one primary rib whereby the strength of the bracket along the strut is improved.

### REMARKS

Claims 1, 18 and 19 have been amended. Claims 2 and 17 have been canceled. New claims 21 and 22 have been added. Claims 1, 3-16, and 18-22 remain pending in the application.

#### *Support for Claim Amendments and Additions*

Support for amendment of claim 1 can be found in original Figures 1-4.

Support for amendment of claim 18 can be found in original Figures 1-4.

Support for amendment of claim 19 can be found in original Figures 1-4.

Support for new claim 21 can be found in original Figures 2-3 and original claim 1.

Support for new claim 22 can be found in Figures 1-3 and 5; original claims 3, 4, 7, 8, and 9; and page 10 lines 18-19 of the specification.

***Objections/Rejections  
Under 35 U.S.C. §102***

**1.0**     *The examiner has rejected claims 1-3, 5, 10-13, 16, and 18-20 as anticipated by Ramser (United States Patent 3,053,491).*

**SUMMARY OF CITED REFERENCE**

**Ramser** discloses an eaves trough support bracket comprising a main beam, first leg, and second leg. The lower portion of the first and second legs are bent inward along a longitudinal bend line so as to form a nearly enclosed base on the bracket. The first and second legs also extend in the second transverse direction with the transverse height of the legs remaining substantially unchanged along the longitudinal length of the bracket.

**SUMMARY OF CLAIMED INVENTION**

**A First Embodiment** of the present claimed invention (claims 1, 3-16, and 18-19) is directed to an eaves trough support bracket having a first leg extending in a second transverse direction from the first edge of a main beam with a proximal longitudinal end substantially transversely aligned with a proximal end of the main beam and a second leg extending in the second transverse direction from a second edge of the main beam with a proximal longitudinal end substantially transversely aligned with the proximal end of the main beam. The main beam, first leg, and second leg define a concavity accessible from a first transverse direction whereby the support bracket is transversely nestable.

**A Second Embodiment** of the present claimed invention (claim 21) is directed to an eaves trough support bracket having a main beam, first leg and second leg. The first and second legs extend in a second transverse direction. The first leg has a transverse height that tapers in the second transverse direction with a height at the longitudinal center of the main beam less than one half the transverse height at the proximal longitudinal end of the first leg. The second leg has a transverse height that tapers in the second transverse direction with a height at the longitudinal center of the main beam less than one half the transverse height at the proximal longitudinal end of the second leg.

**A Third Embodiment** of the present claimed invention (claim 22) is directed to an eaves trough support bracket having a main beam, connection element, first leg, second leg, first bend line, second bend line, at least one primary rib, and at least one secondary rib. The connection element includes a strut and a tab. The at least one primary rib is formed within the main beam and the strut which extends across and substantially perpendicular to the first bend line and overlaps the first and second leg improving the strength of the bracket. The at least one secondary rib is formed within the strut and tab and extends across and substantially perpendicular to the second bend line and transversely overlaps the at least one primary rib improving the strength of the bracket.

#### LEGAL BASIS

An anticipation rejection under 35 U.S.C. § 102 requires that the cited reference(s) disclose each and every element of the claimed invention. *See, Hybritech Inc. v. Monoclonal Antibodies, Inc.*, 231 U.S.P.Q. 81, 90 (Fed. Cir. 1986); *Kloster Speedsteel AB et al. v. Crucible Inc. et al.*, 230 U.S.P.Q. 81, 84 (Fed. Cir. 1986). A reference anticipates a claim only when the reference discloses each and every element recited in the claim. *See, Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051 (Fed. Cir. 1987) and M.P.E.P. §2131. Accordingly, the “exclusion of a claimed element from a prior art reference is enough to negate anticipation by that reference.” *Atlas Powder Co. v. E.I. duPont De Nemours & Co.*, 224 U.S.P.Q. 409, 411 (Fed. Cir. 1984).

#### RAMSER DOES NOT DISCLOSE EACH AND EVERY ELEMENT OF THE CLAIMED INVENTION.

#### FIRST EMBODIMENT

Ramser discloses an eaves trough support bracket. The bracket comprises a main beam, first leg, and second leg. The lower portion of the first and second legs are bent inward along a longitudinal bend line so as to form a nearly enclosed base on the bracket. The First Embodiment of the present claimed invention is directed to a transversely nestable bracket. Ramser does not disclose, teach, or suggest a transversely nestable bracket.

## SECOND EMBODIMENT

Ramser discloses an eaves trough support bracket. The bracket comprises a main beam, first leg, and second leg. The first and second legs extend in the second transverse direction with the transverse height of the legs remaining substantially unchanged along the longitudinal length of the bracket. The Second Embodiment of the present claimed invention is directed to a bracket with legs that taper in the second transverse direction along the longitudinal length of the bracket. Ramser does not disclose, teach, or suggest a bracket having tapering legs.

## THIRD EMBODIMENT

Ramser discloses an eaves trough support bracket. The bracket comprises a main beam, connection element, first leg, and second leg. The Third Embodiment of the present claimed invention is directed to a bracket with ribs formed in the connection element. Ramser does not disclose, teach, or suggest a bracket with any ribs formed in the connection element.

### ***Objections/Rejections Under 35 U.S.C. §103***

**2.0**     *The Examiner has rejected claims 4, 6-9, 15, and 17 as obvious over Ramser in view of Odekirk (United States Patent 4,294,422).*

## SUMMARY OF CITED REFERENCES

**Ramser** discloses an eaves trough support bracket comprising a main beam, first leg, and second leg. The lower portion of the first and second legs are bent inward along a longitudinal bend line so as to form a nearly enclosed base on the bracket. The first and second legs also extend in the second transverse direction with the transverse height of the legs remaining substantially unchanged along the longitudinal length of the bracket.

**Odekirk** discloses an eaves trough support bracket comprising a main beam, a first longitudinally elongated side rib, second longitudinally elongated side rib, and connection element.

The connection element has a strut and tab. A rib is also disclosed along a bend line along the transition line from the main beam to the strut. The first and second side ribs extend in the second transverse direction with the transverse height of the side ribs remaining substantially unchanged along the longitudinal length of the bracket.

#### SUMMARY OF CLAIMED INVENTION

**A First Embodiment** of the present claimed invention (claims 1, 3-16, and 18-19) is directed to an eaves trough support bracket having a first leg extending in a second transverse direction from the first edge of a main beam with a proximal longitudinal end substantially transversely aligned with a proximal end of the main beam and a second leg extending in the second transverse direction from a second edge of the main beam with a proximal longitudinal end substantially transversely aligned with the proximal end of the main beam. The main beam, first leg, and second leg define a concavity accessible from a first transverse direction whereby the support bracket is transversely nestable.

**A Second Embodiment** of the present claimed invention (claim 21) is directed to an eaves trough support bracket having a main beam, first leg and second leg. The first and second legs extend in a second transverse direction. The first leg has a transverse height that tapers in the second transverse direction with a height at the longitudinal center of the main beam less than one half the transverse height at the proximal longitudinal end of the first leg. The second leg has a transverse height that tapers in the second transverse direction with a height at the longitudinal center of the main beam less than one half the transverse height at the proximal longitudinal end of the second leg.

**A Third Embodiment** of the present claimed invention (claim 22) is directed to an eaves trough support bracket having a main beam, connection element, first leg, second leg, a first bend line, second bend line, at least one primary rib, and at least one secondary rib. The connection element includes a strut and a tab. The at least one primary rib is formed within the main beam and the strut which extends across and substantially perpendicular to the first bend line and overlaps the first and second leg improving the strength of the bracket. The at least one

secondary rib is formed within the strut and tab and extends across and substantially perpendicular to the second bend line and transversely overlaps the at least one primary rib improving the strength of the bracket.

#### LEGAL BASIS

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation; either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must be found in the prior art, NOT in applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). See, M.P.E.P. § 2143.

NEITHER RAMSER NOR ODEKIRK TEACH OR SUGGEST ALL OF THE CLAIM LIMITATIONS OF THE CLAIMED INVENTION.

#### FIRST EMBODIMENT

Ramser discloses an eaves trough support bracket. The Ramser bracket comprises a main beam, first leg, and second leg. The lower portion of the first and second legs are bent inward along a longitudinal bend line so as to form a nearly enclosed base on the bracket. Odekirk discloses an eaves trough support bracket having first and second longitudinally elongated side ribs. Unlike Ramser, the First Embodiment of the present claimed invention is directed to a transversely nestable bracket. Unlike Odekirk, the First Embodiment of the present claimed invention is directed to a bracket with legs having proximal longitudinal ends substantially transversely aligned with the proximal end of the main beam. Neither Ramser nor Odekirk disclose, teach, or suggest combining the teachings of these references to form a transversely nestable bracket with legs having proximal longitudinal ends substantially transversely aligned with the longitudinal proximal end of the main beam.

## SECOND EMBODIMENT

Ramser discloses an eaves trough support bracket. . The bracket comprises a main beam, first leg, and second leg. The first and second legs extend in the second transverse direction with the transverse height of the legs remaining substantially unchanged along the longitudinal length of the bracket. Odekirk discloses an eaves trough support bracket comprising a main beam, first side rib, and second side rib. The first and second side ribs extend in the second transverse direction with the transverse height of the side ribs remaining unchanged along the longitudinal length of the bracket. The Second Embodiment of the present claimed invention is directed to a bracket with legs that taper in the second transverse direction along the longitudinal length of the bracket. Neither Ramser nor Odekirk disclose, teach, or suggest legs or side ribs that taper in the second transverse direction along the longitudinal length of the bracket.

## THIRD EMBODIMENT

Ramser and Odekirk disclose an eaves trough support bracket. The Ramser bracket comprises a main beam and connection element. The Ramser bracket has no ribs. The Odekirk bracket comprises a main beam and connection element. The element has a strut and tab wherein a rib formed is along a bend line along the transition line from the main beam to the strut. The Third Embodiment of the present claimed invention is directed to a bracket with overlapping ribs. Neither Ramser nor Odekirk disclose, teach, or suggest overlapping ribs effective for eliminating points of weakness in the bracket.

## CONCLUSION

Applicant respectfully submits that all pending claims (claims 1-2, 4-16, and 18-22) are in condition for allowance.

Respectfully submitted,

Date Dec. 19, 2002

By Elizabeth D. Lewen  
Elizabeth D. Lewen, Reg. No. 50,260  
SHERRILL LAW OFFICES  
4756 Banning Avenue, Suite 212  
White Bear Lake, Minnesota 55110-3205  
(651) 426-2400



1. (Once amended) An eaves trough support bracket, comprising:
  - (a) a main beam having longitudinally spaced distal and proximal ends, laterally spaced first and second edges, and transversely spaced first and second surfaces;
  - (b) a connection element extending in a first transverse direction from the distal end of the main beam;
  - (c) a hook extending in the first transverse direction and a second longitudinal direction from the proximal end of the main beam, and defining a concavity open in a second transverse direction;
  - (d) a first leg extending in a second transverse direction from the first edge of the main beam with a proximal longitudinal end substantially transversely aligned with the proximal end of the main beam; and
  - (e) a second leg extending in the second transverse direction from the second edge of the main beam with a proximal longitudinal end substantially transversely aligned with the proximal end of the main beam;
  - (f) wherein the main beam, first leg and second leg define a concavity accessible from the first transverse direction whereby the support bracket is transversely nestable.
  
18. (Once Amended) An article of commerce, comprising:
  - (a) a length of eaves trough; and
  - (b) a plurality of eaves trough support brackets comprising:
    - (i) a main beam having longitudinally spaced distal and proximal ends, laterally spaced first and second edges, and transversely spaced first and second surfaces,
    - (ii) a connection element extending in a first transverse direction from the distal end of the main beam,
    - (iii) a hook extending in the first transverse direction and a second longitudinal direction from the proximal end of the main beam, and defining a concavity open in a second transverse direction,
    - (iv) a first leg extending in a second transverse direction from the first edge of

the main beam with a proximal longitudinal end substantially transversely aligned with the proximal end of the main beam, and

- (vii) a second leg extending in the second transverse direction from the second edge of the main beam with a proximal longitudinal end substantially transversely aligned with the proximal end of the main beam;
- (viii) wherein the main beam, first leg and second leg define a concavity accessible from the first transverse direction whereby the support bracket is transversely nestable.

19. (Once Amended) A method of installing eaves trough, comprising the steps of:

- (a) obtaining a length of eaves trough defining a water diversion channel and comprising:
  - (i) a bottom having longitudinally spaced and laterally extending first and second edges,
  - (ii) a back wall transversely extending from the second laterally extending edge of the bottom and having a laterally extending distal edge transversely spaced from the bottom in a primary transverse direction,
  - (iii) a front wall transversely extending from the first laterally extending edge of the bottom and having a laterally extending distal edge transversely spaced from the bottom in the primary transverse direction, and
  - (iv) a laterally extending snap-lock channel formed along the distal edge of the front wall[.];
- (b) obtaining a plurality of eaves trough support brackets comprising:
  - (i) a main beam having longitudinally spaced distal and proximal ends, laterally spaced first and second edges, and transversely spaced first and second surfaces,
  - (ii) a connection element extending in a first transverse direction from the distal end of the main beam configured and arranged for releasable engagement within the snap-lock channel formed in the eaves trough,
  - (iii) a hook extending in the first transverse direction and a second longitudinal direction from the proximal end of the main beam, and defining a

- concavity open in a second transverse direction,
- (iv) a first leg extending in a second transverse direction from the first edge of the main beam with a proximal longitudinal end substantially transversely aligned with the proximal end of the main beam, and
  - (v) a second leg extending in the second transverse direction from the second edge of the main beam with a proximal longitudinal end substantially transversely aligned with the proximal end of the main beam,
  - (vi) wherein the main beam, first leg and second leg define a concavity accessible from the first transverse direction whereby the support bracket is transversely nestable;
- (c) engaging the connection element of the support bracket within the snap-lock channel formed in the eaves trough;
  - (d) sliding the distal edge of the rear wall of the eaves trough into the concavity defined by the hook to form a connected eaves trough assembly;
  - (e) positioning the connected eaves trough assembly along an eave with the back wall of the eaves trough engaging the eave; and
  - (f) securing the connected eaves trough assembly to the eave by longitudinally driving a mechanical fastener through the hook of the bracket and the rear wall of the eaves trough, and into connective engagement with the eave.